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ADMINISTRATIVE AND BUDGETARY ASPECTS
OF THE FINANCING OF THE UNITED NATIONS
PEACEKEEPING OPERATIONS: FINANCING
OF THE UNITED NATIONS PEACEKEEPING
OPERATIONS

Third-party claims

Reform of the procedures for determining reimbursement to Member States for contingent-owned equipment

Death and disability benefits

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the reports of the Secretary-General on the following subjects: (a) third-party claims (A/51/903); (b) reform of the procedures for determining reimbursement to Member States for contingent-owned equipment (A/51/967 and Corr.1); and (c) death and disability benefits (A/52/369).
2. During its consideration of the reports, the Committee met with representatives of the Secretary-General, who provided additional information.

I. THIRD-PARTY CLAIMS

3. The Advisory Committee notes that the Secretary-General's report of 21 May 1997 (A/51/903) was submitted pursuant to General Assembly resolution 51/13 of 4 November 1996, in which the Assembly requested the Secretary-General to develop specific measures, including criteria and guidelines for implementing the principles outlined in his report of 20 September 1996 (A/51/389) and to report thereon to the Assembly through the Advisory Committee.



4. The Advisory Committee also notes that the report (A/51/903) deals with third-party claims for personal injury, illness or death and property loss or damage attributable to the activities of members of peacekeeping operations in the performance of their official duties. It does not cover claims relating to troops nor does it apply in cases of injury to civilian staff. The Advisory Committee notes from paragraph 14 of the report that in cases of gross fault or wilful or criminal intent, the Organization would seek recovery from the individual or the troop-contributing State concerned.

5. The Advisory Committee recommends that the General Assembly endorse the modalities for establishing the financial and temporal limitations in legal binding instruments proposed in paragraphs 37 to 41 of the report. For the reasons stated by the Secretary-General, the Advisory Committee also recommends that the General Assembly consider the adoption of a resolution stipulating the temporal and financial limitations of the Organization as proposed by the Secretary-General in paragraph 47 of his report. Should such a resolution be adopted, the Advisory Committee recommends that its implementation be systematically monitored.

II. REFORM OF THE PROCEDURES FOR DETERMINING REIMBURSEMENT TO MEMBER STATES FOR CONTINGENT-OWNED EQUIPMENT

6. The Advisory Committee notes that the Secretary-General's report on reform of the procedures for determining reimbursement to Member States for contingent-owned equipment (A/51/967 and Corr.1) has been submitted pursuant to General Assembly resolution 51/218 E of 17 June 1997, in which, inter alia, the Assembly requested the Secretary-General to ensure that the contribution agreement fully reflects the reports of the Phase II and III Working Groups of Reimbursement of Contingent-owned Equipment and to issue an appropriate corrigendum to the agreement.

7. The Advisory Committee recalls paragraph 7 of its report of 4 November 1996 (A/51/646), in which it recommended that the legal implications for the United Nations of the use of the term "memorandum of understanding" be thoroughly explored. The Advisory Committee notes from paragraph 2 of the Secretary-General's report that the model contribution agreement as contained in the annex has been revised and is presented in the form of a memorandum of understanding between the United Nations and the participating State contributing resources to United Nations peacekeeping operations. The Advisory Committee was informed that the memorandum of understanding entailed legally binding rights and obligations and, once concluded, would be legally binding on the parties.

8. With regard to loss or damage of major equipment, from a single hostile action, the Advisory Committee notes from paragraph 17 (b) of annex B to the report that the troop-contributing country will assume liability for each and every item of equipment when the collective generic fair market value is below the value of \$250,000.

9. The Advisory Committee was informed that the following paragraphs of annex B reflected changes in the text of the contribution agreement set out in the annex to the report of the Secretary-General of 9 July 1996 (A/50/995):

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6.4, 14 and annex B, section 6, paragraph 17 (b). The Committee also draws attention to the replacement of paragraph 18 of annex E contained in the corrigendum to the report (A/51/967/Corr.1).

10. The Advisory Committee was further informed that the text as contained in the report had been reviewed further and that subsequent to the meeting with the Advisory Committee the following change to the draft text was now being proposed: in annex B, section 6, Loss or damage, paragraph 18 would read as follows:

"In cases of loss or damage resulting from a single hostile action or forced abandonment, the United Nations will assume liability for each and every item of major equipment when the collective generic fair market value equals or exceeds the threshold value of \$250,000."

III. DEATH AND DISABILITY BENEFITS

11. In section II, paragraph 6, of its resolution 51/218 E, the General Assembly requested the Secretary-General to submit a report to it no later than 31 October 1997 containing detailed implementation proposals, including administrative and payment arrangements and procedures, as well as proposals for administrative resource reductions resulting from the new, simplified system.

12. The report of the Secretary-General of 17 September 1997 (A/52/369) provides information on the proposed administrative arrangements for the processing of death and disability claims for incidents occurring from 1 July 1997 onwards and resource requirements relating to the administration of death and disability claims. Upon enquiry, the Advisory Committee was informed that as at 29 August 1997, since the inception of the recording system in 1992, out of 4,602 incidents that had occurred, 1,001 claims had been received by the Administration (314 relating to death and 687 relating to disability).

13. The Advisory Committee is of the opinion that the proposals of the Secretary-General will lead to a considerable simplification of procedures. The Committee recommends that the proposed administrative arrangements for the processing of death and disability claims, once approved by the General Assembly, should be reflected in a manual and that the implementation of the arrangements should be systematically monitored. In this connection, there is a need to ensure that appropriate guidelines are in place to determine what are not mission-incurred events; a clear definition of "accident" and "incident" is also needed.

14. With regard to staff resources, the Advisory Committee notes from paragraph 24 of the report that a total of three posts (one P-4, one P-2 and one General Service) and one gratis military officer perform the functions of processing of contingent-owned equipment claims and third-party claims, including processing of death and disability claims under the old procedures. In addition, general temporary assistance (equivalent to 12 months for one P-3 and one General Service post) is specifically earmarked for the processing of such claims and to eliminate the backlog. It is the view of the Advisory Committee that in order to ensure the expeditious processing of backlog claims,

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adequate staff resources must be maintained, especially in view of General Assembly resolution 51/243 of 15 September 1997 on gratis personnel.

15. The Advisory Committee also points out that there is a need for adequate publicity on claims procedures, including specific information on the filing period and of the United Nations office to be notified.
